

Message Text

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ORIGIN PM-04

INFO OCT-01 EA-07 ISO-00 ACDA-07 CIAE-00 ERDA-05 H-02

INR-07 L-03 NSAE-00 NSC-05 PRS-01 SP-02 SS-15 TRSE-00

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EA/J - MR. FEATHERSTONE

EA/ANP - MR. WAJDA

PM/NPO - MR. NOSENZO

----- 073419

P R 011659Z SEP 76

FM SECSTATE WASHDC

TO AMEMBASSY CANBERRA PRIORITY

INFO AMEMBASSY WELLINGTON

AMEMBASSY TOKYO

SECDEF

CNO

CINCPAC

CINCPACFLT

C O N F I D E N T I A L STATE 216762

CINCPAC ALSO FOR POLAD

E.O. 11652: XGDS-3

TAGS: ANZUS, PFOR, MARR, MNUC, AS, NZ

SUBJECT: ASSURANCES ON LIABILITY FOR NUCLEAR ACCIDENTS

REF: (A) CANBERRA 6117 (DTG 250046Z AUG 76);

(B) STATE 190428 (DTG 312108Z JUL 76); (C) CANBERRA 6315

(DTG 010217Z SEP 76)

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1. EMBASSY IS AUTHORIZED TO PRESENT DFA WITH CONFIDENTIAL

AIDE-MEMOIRE CONCERNING ASSURANCES ON LIABILITY FOR NUCLEAR ACCIDENTS AS SET FORTH BELOW. WE REGARD THIS AIDE-MEMOIRE AS A SEPARATE UNILATERAL ASSURANCE WHICH IN NO WAY MODIFIES THE STANDARD STATEMENT RE NPW OPERATIONS. ONLY SUBSTANTIVE CHANGE FROM ASSURANCES ON LIABILITY FOR NUCLEAR ACCIDENTS GIVEN GONZ IS MODIFICATION IN LAST SENTENCE. THIS IS NECESSARY TO TAKE COGNIZANCE OF SOFA WHICH EXISTS WITH AUSTRALIA BUT NOT WITH NEW ZEALAND. IDENTICAL SOFA CLAUSE, REFERRING TO NATO SOFA, IS CONTAINED IN ASSURANCE GIVEN TO CANADA IN 1968.

BEGIN TEXT. QUOTE. ON AUGUST (DATE), 1976, THE GOVERNMENT OF AUSTRALIA REQUESTED FROM THE UNITED STATES GOVERNMENT AN ASSURANCE REGARDING LIABILITY IN THE EVENT OF A CLAIM FOR DAMAGE OR LOSS CAUSED BY AN ACCIDENT INVOLVING A NUCLEAR WEAPON THAT MIGHT BE CARRIED ON A UNITED STATES NAVAL VESSEL VISITING AUSTRALIA. IN

RESPONSE TO THAT REQUEST, THE UNITED STATES GOVERNMENT IS PREPARED TO STATE THE FOLLOWING:

THE UNITED STATES GOVERNMENT CERTIFIES THAT ALL SAFETY PRECAUTIONS AND PROCEDURES FOLLOWED IN CONNECTION WITH THE OPERATION IN UNITED STATES PORTS OF UNITED STATES WARSHIPS CARRYING NUCLEAR WEAPONS WILL BE STRICTLY OBSERVED IN VISITS OF SUCH SHIPS TO AUSTRALIAN PORTS. THE APPROPRIATE AUSTRALIAN AUTHORITIES WILL BE NOTIFIED IMMEDIATELY IN THE EVENT OF AN ACCIDENT RELATED TO ANY NUCLEAR WEAPONS WHICH MIGHT BE CARRIED ABOARD SUCH SHIPS. CLAIMS, EXCEPT THOSE COVERED BY THE AGREEMENT OF MAY 9, 1963, CONCERNING THE STATUS OF UNITED STATES FORCES IN AUSTRALIA, ARISING OUT OF A NUCLEAR WEAPON ACCIDENT OR INCIDENT INVOLVING A VISITING UNITED STATES WARSHIP WILL BE DEALT WITH THROUGH DIPLOMATIC CHANNELS IN ACCORDANCE WITH CUSTOMARY PROCEDURES FOR THE SETTLEMENT OF INTERNATIONAL CLAIMS UNDER GENERALLY ACCEPTED PRINCIPLES OF LAW AND EQUITY. UNQUOTE. END TEXT.

2. WHEN PRESENTING AIDE-MEMOIRE TO DFA, EMBOFF SHOULD MAKE FOLLOWING POINTS ORALLY:
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A. WE CANNOT CONFIRM PUBLICLY THE EXISTENCE OR CONTENT OF THIS CLASSIFIED AIDE-MEMOIRE OR SIMILAR ASSURANCES WHICH MAY HAVE BEEN GIVEN TO OTHERS.

B. THIS ASSURANCE DOES NOT ALTER IN ANY WAY USG POLICY TO NEITHER CONFIRM NOR DENY LOCATION OF NUCLEAR WEAPONS, INCLUDING WHETHER SUCH WEAPONS ARE PRESENT ON VISITING

US WARSHIPS.

C. WE WOULD EXPECT THE GOA TO HOLD CONFIDENTIAL THE SPECIFIC ASSURANCES OF THE USG CONCERNING NUCLEAR WEAPONS LIABILITY.

D. WE WOULD HOPE THERE WOULD BE NO NEED FOR PUBLIC COMMENT BY GOA ON THE SUBJECT OF THIS ADDITIONAL ASSURANCE. IF IT IS NECESSARY TO RESPOND TO INQUIRIES, WE WOULD HOPE RESPONSE WOULD BE LIMITED ALONG FOLLOWING LINES: "THE GOA IS SATISFIED WITH THE ASSURANCES GIVEN BY THE USG WHICH ARE THE SAME ASSURANCES REGARDING VISITING WARSHIPS AS IT HAS GIVEN TO THE GOVERNMENT OF NEW ZEALAND AND OTHER ALLIES."

3. ATTENTION INVITED TO DISCUSSION AND CAUTION ON USG LIABILITY IN PARA 5 REFTEL B, WHICH IS RELEVANT TO SITUATION IN AUSTRALIA, ALSO.

4. IF GOA EXPRESSES CONCERN RE EXCLUSION OF CLAIMS COVERED BY SOFA FROM SCOPE OF ASSURANCE, EMBASSY MAY REMIND GOA THAT, AS WE PREVIOUSLY INDICATED WITH RESPECT TO CLAIMS ARISING FROM REACTOR INCIDENTS ON US NPWS, WE DO NOT REGARD SOFA ARTICLE 12 AS EXCLUSIVE REMEDY WHICH WOULD PRECLUDE USG FROM ENTERTAINING CLAIM FOR FULL AMOUNT OF DAMAGE PRESENTED THROUGH NAVY OR DIPLOMATIC CHANNELS.

5. FOR RESPONDING TO PRESS QUESTIONS RE EQUALITY OF TREATMENT FOR AUSTRALIA IN EVENT OF NUCLEAR ACCIDENTS, EMBASSY AUTHORIZED TO DRAW ON FOLLOWING: THE SECURITY TREATY ARRANGEMENTS BETWEEN THE TWO GOVERNMENTS TAKE THE QUESTION OF LIABILITY IN CONNECTION WITH VISITS TO
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AUSTRALIA BY US FORCES FULLY INTO ACCOUNT. WE ARE CONFIDENT THAT THESE ARRANGEMENTS PROVIDE ADEQUATE SAFETY PRECAUTIONS AGAINST INJURY TO PERSONS OR PROPERTY AND SATISFACTORY PROVISIONS FOR COMPENSATION IN THE EVENT OF ANY SUCH INJURY. ANY CLAIMS AGAINST THE UNITED STATES GOVERNMENT ARISING FROM VISITS OF US FORCES TO AUSTRALIA WOULD BE DEALT WITH IN ACCORDANCE WITH AGREEMENTS IN FORCE AND CUSTOMARY PROCEDURES FOR THE SETTLEMENT OF INTERNATIONAL CLAIMS UNDER GENERALLY ACCEPTED PRINCIPLES OF LAW AND EQUITY, AS WOULD BE SIMILAR CLAIMS ARISING FROM VISITS BY US FORCES TO ANY OTHER ALLIED NATION.

6. IF SPECIFICALLY ASKED ABOUT CLAIMS ARISING FROM NUCLEAR POWERED WARSHIPS OR NUCLEAR WEAPONS, EMBASSY

SHOULD INDICATE IT IS NOT AUTHORIZED TO COMMENT ON THIS
SUBJECT, BUT MAY DRAW ON GUIDANCE SET OUT IN PARA 5.

7. EMBASSY MAY PASS AUTHORIZED PRESS GUIDANCE (PARA 5)
TO GOA AND INDICATE EMBASSY WOULD USE IT ON AN "IF ASKED"
BASIS ONLY.

8. DESIRE EMBASSY PROVIDE DEPARTMENT WITH TEXT/
CIRCUMSTANCES OF GOA REQUEST CITED REFTEL A AND COPY
OF AIDE-MEMOIRE BY POUCH AFTER PRESENTATION TO DFA.
ROBINSON

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NNN

Message Attributes

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